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EXAMINER	
CARDENAS NAVIA, JAIME F	

ART UNIT	PAPER NUMBER
3624	

NOTIFICATION DATE	DELIVERY MODE
10/16/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATDOCTC@fr.com

Office Action Summary	Application No.	Applicant(s)	
	10/815,131	EHRET ET AL.	
	Examiner	Art Unit	
	Jaime Cardenas-Navia	3624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *16 June 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2 and 5-14* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,2 and 5-14* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Introduction

1. This **FINAL** office action is in response to communications received on June 16, 2008. Claims 1, 2, 8, and 9 have been amended. Claims 10-14 have been added. Claims 3 and 4 have been cancelled. Claims 1, 2, and 5-14 are pending.

Response to Amendment

2. Applicant's amendments to the specification are **sufficient to overcome the objections to the specification** as set forth in the previous office action.

3. Applicant's amendments to the drawings are **sufficient to overcome the objections to the drawings** as set forth in the previous office action.

4. Applicant's amendments to the claims are **sufficient to overcome the objections to the claims** as set forth in the previous office action.

5. Applicant's amendments to the claims are **sufficient to overcome all the 35 U.S.C. § 112, second paragraph, rejections** as set forth in the previous office action.

Response to Arguments

Applicant's arguments have been fully considered by the Examiner. In particular, Applicant argues regarding independent claims 1 and 8 that (1) Hedlund does not teach or suggest all of the limitations and that (2) all dependent claims are allowable as a result.

Additionally, regarding dependent claim 2, Applicant argues that (3) Hedlund does not teach or suggest wherein the resource is a person that provides a service, a machine, a tool, or a workstation.

Regarding argument (1), Examiner respectfully disagrees. Hedlund clearly teaches:

receiving a first scheduling request for a resource, the first scheduling request specifying that the resource is to be scheduled for a requested amount of time sometime within a requested time period (par. 27, initial workforce schedule is the first scheduling request, par. 37, first scheduling request is received for a resource, with the example given of "a resource is working a particular position every day". The shift for "a particular position" is the requested amount of time sometime within a requested time period. par. 41, the requested time period is the scheduling period, which can be a day or days);

receiving a second scheduling request for the resource that refines the first scheduling request, the second scheduling request specifying that a portion of the requested amount of time is to be scheduled in a specific time slot within the requested time period (par. 52, "the schedule is modified in step 474 based on the employee preferences" is the second scheduling request that refines the first scheduling request. The second scheduling request specifies that, for example, a resource is scheduled for a certain assignment, which schedules a portion of the requested amount of time in a specific time slot within the requested time period);

scheduling in an electronic schedule the portion of the requested amount of time in the specific time slot (fig. 1, 4, par. 40, all scheduling information is stored and accessed electronically); and

scheduling in the electronic schedule a remaining portion of the requested amount of time within the requested time period except within the specific time slot (par. 52, 54, once employee preferences and forecasted demand have been taken into account, the schedule is finalized, which includes scheduling a specific resource for shifts other than those specified by employee preferences, which are within the requested time period (the scheduling period) but not within the specific time slot).

Regarding argument (2), Examiner respectfully disagrees as per the argument above.

Regarding argument (3), Examiner respectfully disagrees. As claim 2, currently reads, Hedlund clearly teaches wherein the resource is a person that provides a service (Abstract, workforce scheduling), a machine, a tool, **or** a workstation, as only one of the limitations must be taught by Hedlund. Additionally, Examiner notes that what the resource is does not functionally alter the claimed invention, and is considered intended use language. Examiner respectfully notes that the intended use of an invention does not patentably distinguish the claimed invention from the prior art.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. **Claims 1, 2, 5-8, 10, 13, and 14 are rejected** under 35 U.S.C. 102(e) as being anticipated by Hedlund et al. (US 2004/0267591 A1).

Regarding claim 1, Hedlund teaches a method comprising:

receiving a first scheduling request for a resource, the first scheduling request specifying that the resource is to be scheduled for a requested amount of time sometime within a requested time period (par. 27, 37, 41);

receiving a second scheduling request for the resource that refines the first scheduling request, the second scheduling request specifying that a portion of the requested amount of time is to be scheduled in a specific time slot within the requested time period (par. 37, 52);

scheduling in an electronic schedule the portion of the requested amount of time in the specific time slot (fig. 1, 4, par. 40); and

scheduling in the electronic schedule a remaining portion of the requested amount of time within the requested time period except within the specific time slot (fig. 1, 4, par. 40, 52, 54).

Regarding claim 2, Hedlund teaches wherein the resource is a person that provides a service (Abstract), a machine, a tool, or a workstation.

Regarding claim 5, Hedlund teaches wherein the first scheduling request specifies that the resource is to be scheduled for a predetermined number of hours within the requested time period that includes a specific date range (par. 27, 34, 41, 49, 50).

Regarding claim 6, Hedlund teaches wherein the second scheduling request refines the first scheduling request by requesting that a portion of the predetermined number of hours from the first scheduling request is to be scheduled for the specific time slot on a specific date within the date range (par. 37, 52).

Regarding claim 7, Hedlund teaches wherein scheduling in the electronic schedule is done to determine a utilization of the resource (fig. 1, par. 30, 50).

Regarding claim 8, Hedlund teaches a computer program product tangibly embodied in an information carrier, the computer program product including instructions that when executed cause a processor to perform operations (fig. 1, 1A, par. 63) comprising:

receive a first scheduling request for a resource, the first scheduling request specifying that the resource is to be scheduled for a requested amount of time sometime within a requested time period (par. 27, 34, 37);

receive a second scheduling request for the resource that refines the first scheduling request, the second scheduling request specifying that a portion of the requested amount of time is to be scheduled in a specific time slot within the requested time period (par. 37, 52);

schedule in an electronic schedule the portion of the requested amount of time in the specific time slot (fig. 1, 4, par. 40); and

schedule in the electronic schedule a remaining portion of the requested amount of time within the requested time period except within the specific time (fig. 1, 4, par. 40, 50).

Regarding claim 10, Hedlund teaches wherein the requested amount of time is less than a maximum time amount that the resource is available during the requested time period (par. 37, 52, a shift for a specific position or a shift for an assignment is less time than the maximum time a resource is available during the scheduling period).

Regarding claim 13, Hedlund teaches referring to a resource's availability information to verify that the resource has sufficient capacity on the specific date regarding the second scheduling request (par. 52, requested time off and other employee preferences are considered before taking action on the second scheduling request).

Regarding claim 14, Hedlund teaches wherein the requested amount of time is less than a maximum time amount that the resource is available during the requested time period (par. 37, 52, a shift for a specific position or a shift for an assignment is less time than the maximum time a resource is available during the scheduling period).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. **Claim 9 is rejected** under 35 U.S.C. 103(a) as being unpatentable over Hedlund et al. (US 2004/0267591 A1) as applied to claim 8 above, further in view of Conmy (US 2001/0014867 A1).

Regarding claim 9, Hedlund does not expressly teach wherein the executable instructions, when executed, further cause a resource planning application to receive all time slots in which the resource is available within the requested time period.

Conmy teaches wherein the executable instructions, when executed, further cause the resource planning application to receive all time slots in which the resource is available within the requested time period (fig. 1, 3, 5-9, par. 40, 41).

The inventions of Hedlund and Conmy pertain to dynamic scheduling of resources. All the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, as Conmy does not teach away from or contradict Hedlund, but rather, teaches a function that was not addressed. Additionally, the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention. Thus, it would have been obvious to combine the teachings, motivated by the teaching of Hedlund of storing and using past schedules

(par. 37), receiving and using employee attributes and preferences for scheduling (par. 50, 52), and graphing the available time of resources (fig. 4).

10. **Claims 11 and 12 are rejected** under 35 U.S.C. 103(a) as being unpatentable over Hedlund et al. (US 2004/0267591 A1) as applied to claim 1 above, further in view of Conmy (US 2001/0014867 A1).

Regarding claim 11, Hedlund does not expressly teach receiving all time slots in which the resource is available within the requested time period according to a resource's availability information stored in a database.

Conmy teaches receiving all time slots in which the resource is available within the requested time period according to a resource's availability information stored in a database (fig. 1, 3, 5-9, par. 40, 41, 52, 53).

The inventions of Hedlund and Conmy pertain to dynamic scheduling of resources. All the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, as Conmy does not teach away from or contradict Hedlund, but rather, teaches a function that was not addressed. Additionally, the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention. Thus, it would have been obvious to combine the teachings, motivated by the teaching of Hedlund of storing and using past schedules (par. 37), receiving and using employee attributes and preferences for scheduling (par. 50, 52), and graphing the available time of resources (fig. 4).

Regarding claim 12, Hedlund does not expressly teach wherein the resource's availability information is maintained as a set of time intervals in the database.

Conmy teaches wherein the resource's availability information is maintained as a set of time intervals in the database (fig. 5-9, par. 52, 53, half-hour intervals are shown).

The inventions of Hedlund and Conmy pertain to dynamic scheduling of resources. All the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, as Conmy does not teach away from or contradict Hedlund, but rather, teaches a function that was not addressed. Additionally, the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention. Thus, it would have been obvious to combine the teachings, motivated by the teaching of Hedlund of storing and using past schedules (par. 37) and graphing the available time of resources as a set of time intervals (fig. 4).

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jaime Cardenas-Navia whose telephone number is (571)270-1525. The examiner can normally be reached on Mon-Fri, 10:30AM - 7:00PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bradley Bayat can be reached on (571) 272-6704. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

October 9, 2008

/J. C./
Examiner, Art Unit 3624

/Bradley B Bayat/
Supervisory Patent Examiner, Art Unit 3624